

CALIFORNIA GAMBLING CONTROL COMMISSION

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May 9, 2001

TO: Gambling Control Commission

FROM: Robert Traverso, Interim Executive Director

SUBJECT: Report to Legislature for Distribution of Funds from Indian Gaming Revenue Sharing Trust Fund

ISSUE: *Can the Gambling Control Commission (Commission) make a partial distribution from the Indian Gaming Revenue Sharing Trust Fund (RSTF) with the information currently available to the Commission?*

The Commission has a fiduciary responsibility for the RSTF as Trustee of the RSTF per all of the Tribal-State Gaming Compacts (Compacts). The Compacts place certain limitations on the Commission's ability to exercise discretion when making distributions from the RSTF.¹

The State's Budget Act for FY2000-01 requires the Commission to submit a report to the Legislature containing various specified information before any distributions from the RSTF can be made.² Moreover, the Legislature would need to authorize an additional expenditure in order for the Commission to distribute funds from the RSTF (Gov.Code Section 12012.75)

¹ The Compacts state that "...each Non-Compact Tribe in the State shall receive the sum of \$1.1 million per year. In the event that there are insufficient monies in the ...RSTF]...to pay \$1.1 million per year to each Non-Compact Tribe, any available monies in ...[the RSTF]... shall be distributed to Non-Compact Tribes in equal shares." (Section 4.3.2.1(a)). These Compacts also state that "payments made to Non-Compact Tribes shall be made quarterly and in equal shares out of the ...[RSTF]. The Commission shall serve as the trustee of the ...RSTF. The Commission shall have no discretion with respect to the use or disbursement of the trust funds. Its sole authority shall be to serve as a depository of the trust funds and to disburse them on a quarterly basis to Non-Compact Tribes. In no event shall the State's General Fund be obligated to make up any shortfall or pay any unpaid claims." (Section 4.3.2.1(b))

² The Budget Act for FY2000-01 (Chap.52, Item #0855-101-0366(3)) specifies that "...the California Gambling Control Commission shall provide the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations a report identifying (1) the methodology for determining a noncompact tribe; (2) a list of the noncompact tribes identified based on the commission's methodology; (3) the methodology for determining the amount of revenue each compact tribe is required to pay into the Indian Gaming Revenue Trust Fund; (4) a trust fund condition report including the amount of revenue received from each compact tribe; and (5) the amount of funds to be distributed to each noncompact tribe. Upon receiving additional expenditure authority for distributing funds

The Commission needs to be able to identify the funds that are legitimate gaming device license fee payments to the RSTF, those that are not legitimate payments, and those that it cannot yet identify as legitimate or not-legitimate payments.

Given the partial, unaudited information currently available to the Commission from the Compact Tribes, these tribal responses to the Commission's March 22nd letter indicate that approximately \$30.2 million of the \$39.6 million are apparently legitimate gaming device license fee payments to the RSTF. However, the methodology to calculate the quarterly fees varies among the Compact Tribes. These variations significantly affect the amounts of fees calculated as owed and to be paid by the different tribes, and, in turn, the fund balance of the RSTF. Until this issue is resolved, even though some of tribes have made one-time and quarterly fee payments to the RSTF, it is not clear as to what are the correct payments that they should have made, and, in turn, what is the correct fund balance available for distribution. This issue is discussed in greater detail later in this report.

Given the language in the Compacts, given the report required by the Legislature, given that there are 18 tribes that have not yet responded to the Commission's request for needed information and, thus, can't be identified as "*Compact*" or "*Non-Compact*" for the purposes of any distribution, given the quarterly fee calculation methodology variations, and given that the Commission can only identify a portion of the funds in the RSTF as apparently legitimate gaming device license fee payments at this time, the Commission has two basic options: 1) narrowly interpret the Commission's flexibility under the Compacts and under the Budget Act and defer any effort to make a distribution until all of the information needed by the Commission is available to the Commission, or 2) take a broader interpretation of the Commission's flexibility under the Compacts and under the Budget Act, and take a fiscally-sensitive but fiscally-prudent approach, and consider a *partial distribution* at this time until the Commission can obtain and confirm the requested information from all of the Compact Tribes and Sides Accountancy (Sides), and, in turn, determine if all of the funds in the RSTF are legitimate gaming device license fee payments. If the Commission takes this approach, if no Compact Tribe legally challenges this approach, and if the Legislature authorizes the expenditure recommended in the Commission's report, *the Commission could make a partial distribution from the RSTF.*

RECOMMENDATION: *It is recommended that the Commission (1) indicate that it is not affirming at this time the manner in which the Compact Tribes calculated their quarterly fee payment, (2) that it approve the attached report to the Legislature for a proposed \$10.1 million partial distribution of the \$30.2 million in unaudited but apparently legitimate gaming device license fee payments in the RSTF to the 68 eligible non-compact non-gaming tribes and eligible non-compact gaming tribes that have submitted the requested information to the Commission*

under the trust fund, the commission shall submit that information to the chairpersons of the committees on a quarterly basis concurrent with the distribution of the funds to the noncompact tribes."

(see Attachment #1), and (3) that it retain a fiscally-prudent reserve of \$20.1 million in the RSTF until the Commission has complete, audited information on which to base distributions.

BACKGROUND: The Tribal-State Gaming Compacts state that “...each Non-Compact Tribe in the State shall receive the sum of \$1.1 million per year. In the event that there are insufficient monies in the ...RSTF]...to pay \$1.1 million per year to each Non-Compact Tribe, any available monies in ...[the RSTF]... shall be distributed to Non-Compact Tribes in equal shares.” (Section 4.3.2.1(a)). These Compacts also state that “payments made to Non-Compact Tribes shall be made quarterly and in equal shares out of the ...[RSTF]. The Commission shall serve as the trustee of the ...RSTF. The Commission shall have no discretion with respect to the use or disbursement of the trust funds. Its sole authority shall be to serve as a depository of the trust funds and to disburse them on a quarterly basis to Non-Compact Tribes. In no event shall the State’s General Fund be obligated to make up any shortfall or pay any unpaid claims.” (Section 4.3.2.1(b))

The Budget Act for FY2000-01 (Chap.52, Item #0855-101-0366(3)) specifies that “...*the California Gambling Control Commission shall provide the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations a report identifying (1) the methodology for determining a noncompact tribe; (2) a list of the noncompact tribes identified based on the commission’s methodology; (3) the methodology for determining the amount of revenue each compact tribe is required to pay into the Indian Gaming Revenue Trust Fund; (4) a trust fund condition report including the amount of revenue received from each compact tribe; and (5) the amount of funds to be distributed to each noncompact tribe. Upon receiving additional expenditure authority for distributing funds under the trust fund, the commission shall submit that information to the chairpersons of the committees on a quarterly basis concurrent with the distribution of the funds to the noncompact tribes.*”

On March 8, 2001, the Governor issued Executive Order D29-01, declaring that the Commission “...is prepared to assume the responsibilities and exercise the powers conferred by ...the Gambling Control Act.”

On March 13, 2001, the Governor issued Executive Order D-31-01, which specified that the Commission shall (1) administer the gaming device license draw process, (2) control, collect, and account for all license fees, and (3) ensure that the allocation of gaming devices among California Indian Tribes does not exceed the allowable number provided in the Compacts. Included within this responsibility is serving as the trustee for the Revenue Sharing Trust Fund.

On March 16, 2001, the offices of the Governor and the Attorney General mailed a letter to Sides, c/o of his attorney, “...instructing your client not to conduct any further draws or make any representations that could be construed to mean that he has Compact authority to conduct [license] draws or to issue gaming device licenses. Moreover, to the extent your client believes that he has been designated Pool Trustee and authorized by the State to conduct the license drawing, any such authority is hereby revoked.” In addition, this letter states that, “we believe the Gambling Control Commission is vested with...the authority to see that the draw for machine

licenses complies with State law and the tribal gaming compacts”, and that the Commission “...is vested with ...the authority to issue gaming device licenses to California Indian Tribes.” This letter further indicates that “in order to allow the Commission to carry out [its] duties, and its responsibilities to account for licensing fees payable to the State,...we request that you immediately make arrangements to provide the information requested in this letter to the California Gambling Control Commission so that it may carry out its responsibilities as Trustee of the Revenue Sharing Trust Fund.”

Each of the 61 Tribal-State Gaming Compacts defines the “State Gaming Agency” as “...the entities authorized to investigate, approve, and regulate gaming licenses pursuant to the Gambling Control Act...” (Act). (Section 2.18) Under the Act, the Division of Gambling Control (Division) conducts license investigations, investigates suspected violations of the State’s gambling laws, and recommends disciplinary actions to the Commission of suspected violations as provided in the Act. The Gambling Control Commission (Commission) has “...jurisdiction over operation and concentration, and supervision over gambling establishments in this State, and over all persons or things having to do with the operation of gambling establishments...” The Commission’s responsibilities include (1) “...assuring that licenses, approvals, and permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare”, (2) requiring “...any person to apply for a license or approval...”, (3) “for any cause deemed reasonable by the Commission, deny any application for a license, permit, or approval...”, (4) specifying “... standard forms for reporting financial conditions, results of operations, and other relevant financial information.”

Each of the 61 Tribal-State Gaming Compacts also states the following:

- The Compact is “evidence [of] the goodwill and cooperation of the Tribe and State in fostering a mutually respectful government-to-government relationship that will serve the mutual interests of the parties.” (Section 1.0)
- “The Revenue Sharing Trust Fund is a fund created by the Legislature and administered by the California Gambling Control Commission, as Trustee, for the receipt, deposit, and distribution of monies pursuant to this Section 4.3.2.” (Section 4.3.2(ii))
- “The Tribe may acquire and maintain a license to operate a Gaming Device by paying into the Revenue Sharing Trust Fund, on a quarterly basis, in the following amounts...” (Section 4.3.2.2(a)(2))
- Licenses draws “...shall continue until tribes cease making draws, at which time draws will be discontinued for one month or until the Trustee is notified that a tribe desires to acquire a license, whichever occurs last.” (Section 4.3.2.2(a)(3)(vi))
- As a condition of acquiring licenses to operate Gaming Devices, a non-refundable one-time pre-payment fee shall be required in the amount of \$1,250 per Gaming Device being licensed, which fees shall be deposited in the Revenue Sharing Trust Fund.” (Section 4.3.2.2(e))
- “The Tribe shall not conduct any Gaming Activity authorized by this Compact if the Tribe is more than two quarterly contributions in arrears in its license fee payments to the Revenue Sharing Trust Fund.” (Section 4.3.2.3)

On March 22, 2001, as follow-up to this direction, the Commission mailed a letter to all of the 61 *Compact Tribes* in California to update these tribes about the Commission, and requesting various *current information* needed by the Commission to complete the required report to the State Legislature for the distribution of funds from the Revenue Sharing Trust Fund to the Non-Compact Tribes. This letter requested that the information be submitted to the Commission by April 6, 2001. (Previous requests for similar information by the Division and the Commission did not result in a complete, consistent response from the Compact Tribes. Moreover, the information that had been received from some of the Compact Tribes was several months old, and changes had occurred in some of the tribe's operations which meant that those tribes' information needed to be updated.)

In addition, the Commission mailed a letter to all of the *Non-Compact Tribes*, dated March 21, 2001, advising them of the letter to the Compact Tribes, and "...that the Commission is aware of, and sensitive to, the importance of making the initial distribution from this Fund to you as expeditiously as possible...", and of "...the Commission's objective to make the first distribution from the Revenue Sharing Trust Fund to the Non-Compact Tribes in May, depending on the timing of the Legislature's approval of the Commission's report."

Despite the March 16th letter from the offices of the Governor and the Attorney General, a letter, dated April 3, 2001, from Sides to some of the Compact Tribes was issued notifying them that "...the upcoming draw for allocation of gaming device licenses shall take place April 30, 2001, at 11:00 am, at the Burbank Airport Hilton and Convention Center..." The Commission obtained a copy of this letter on April 9th, and, shortly thereafter, discussed response options with the Department of Justice.

The Commission, in response to the Sides April 3rd draw letter, mailed a letter to all of the Compact Tribes, dated April 11, 2001, advising the tribes that the Sides draw is unauthorized under the terms of the Tribal-State Gaming Compacts, that any licenses issued by Sides as a result of this draw would not be recognized by the State as valid licenses for the operation of gaming devices or for any other purpose under the Compacts, and that any fees paid to Sides for any participation in the draw or for any gaming device licenses as a result of this draw would not be considered by the State to be payment for any gaming device licenses under any provisions of the Compacts. The Commission also mailed a copy of this letter to Sides.

On April 16, 2001, Sides came to the Commission's offices to deliver two cashier's checks, totaling \$1,037,865.22, without any supporting detail, on behalf of "some tribes" (he advised staff that he could not remember which tribes, and that, even if he could, his confidentiality agreement with the tribes prevented him from doing so) for "some fees" paid to him by these tribes (he advised staff that he could not remember which fees, or whether they were one-time license fees or for quarterly fees). In addition, when asked if he (Sides) had a license draw in March, he indicated to Commission staff that he had sent out a letter for a draw for March but he could not remember if there actually was a draw or if any tribes actually obtained any licenses at that draw. When asked if any of the monies in the two checks he was delivering to the Commission contained any one-time license fees for gaming device licenses which may have

been issued by him at the unauthorized March draw, Sides indicated that he could not remember. The two checks were tentatively accepted by staff, but staff advised Sides that, without any supporting detail, these funds would not be placed in the RSTF, but, instead, would be placed in an uncleared collections liability account in the General Services Fund by the Contracted Fiscal Services Unit of the Department of General Services (the department currently handling the Commission's accounting services). *Moreover, if follow-up audits by the Commission demonstrate that these funds are for one-time gaming device license fees collected by Sides for any unauthorized license draws by Sides, these funds would be returned to Sides.*

On April 25th, the Commission's Acting Chief Counsel called and spoke to the Deputy Director of the Division and "...requested that agents attend the Sides draw on April 30th in Burbank, and gather as much information as possible." The Commission's Acting Chief Counsel was advised by the Division's Deputy Director that "...he'd look into it and get back to [her]." On April 26th, the Division's Chief Deputy advised the Commission's Acting Chief Counsel that "...the time frame is a little too short for us." As a result, it is the Commission's understanding from these conversations that the Division did not send any agents to attend the gaming device license draw by Sides on April 30th. I confirmed this understanding with the Division's Director on May 7th.

At a meeting on April 18th, I inquired of the Division's Director if the Division had received from all of the Compact Tribes copies of all shipping documents for all gaming devices shipped to them, and was advised that the Division had received this information. I requested a copy of this information. The Division's Director indicated that he would have the documents copied and sent to the Commission, and that it would take approximately two weeks to complete this task. This information was received on May 7, 2001. After the budget is enacted and the Commission has its auditing staff, this information will be used by the Commission's staff to help substantiate the gaming device information submitted to the Commission by the tribes.

On May 1st, I confirmed with the Division's Director that all of the Division's "field count" results and all of the written responses from the tribes to the Division on tribal gaming device license and fee information had been forwarded to the Commission, and that the Division had no other information on these issues which had not been forwarded to the Commission. (As indicated previously, this information was incomplete and, in many instances, out of date.) I also asked if the Division had done any audits of any tribal casinos for any purpose, or if the Division had received any audits of tribal casinos for any purpose, and was advised that the answer was "No" to both questions. I also advised him that, after the Commission's budget is approved, the Commission will be conducting periodic gaming device field compliance audits, as part of its State Gaming Agency licensing role and as part of its fiduciary responsibility as Trustee of the RSTF, to verify the number of gaming devices in operation and licensed.

In response to the Commission's letter to the Compact Tribes, dated March 22nd, the Commission received responses from approximately 25% of the 61 Compact Tribes by April 6th (the date by which the Commission had requested the information to be submitted). During the next four weeks, in an effort to obtain the needed information so that the Commission's report to the Legislature could be completed on a timely basis, the Commissioners and staff called every Compact Tribe that had not responded, inquired as to the status of the tribe's response to the

Commission's letter, and faxed a copy of the Commission's letter to those tribes which indicated that they had not received the letter. Several of the tribes were in the process of responding and indicated that the Commission would receive the requested information shortly. As of May 9, 2001, the status of responses to the Commission's letter to the Compact Tribes, dated March 22, 2001, is as follows:

1. 43 (70%) Compact Tribes *had responded with most or all of the requested information* (See Attachment #2), and
2. 18 (30%) Compact Tribes *had not responded with any of the requested information* (See Attachment #3).

Of the \$39,600,000 in the Revenue Sharing Trust Fund (RSTF) as of March 31, 2001, approximately \$36,300,000 (91%) of these receipts have been received from Sides. As indicated above, Sides has not provided any supporting documentation to clarify and substantiate the source, nature, correctness, or completeness of any of these receipts. More specifically, by April 25, 2001, the Commission had received *none* of the information from Sides requested by the offices of the Governor and the Attorney General, in their letter to Sides, dated March 16, 2001. As a result, the Commission mailed a letter to Sides, dated April 25, 2001, requesting Sides to submit the requested information to the Commission by May 4, 2001. As of May 9th, the Commission still has not received any response from Sides.

With respect to the "Sides information", the Commission has received clarification on the source and nature of some of these receipts from the responses from some of the Compact Tribes. Although the Commission has not yet audited the responses from the Compact Tribes, the Commission can apparently identify approximately \$30.2 million (76%) of the \$39.6 million as apparently legitimate contributions to the RSTF. However, as indicated earlier, there are various methodologies being used by the different Compact Tribes to calculate the quarterly fees owed to the RSTF. The Commission staff's methodology to calculate these fees is as follows:

- **One-time Fee: \$1,250 x the number of gaming device licenses issued**
Compact Section 4.3.2.2(e):
Example: 1,000 licenses x \$1,250 = \$1,250,000.
- **Quarterly Fee: "Number of Licensed Devices" x "Fee Per Device Per Annum"**
Compact Section 4.3.2.2(a)(2):
Example: "Fee Per Device Per Annum" for 1,000 licenses devices = (\$0 per device x 350 devices) + (\$900 per device x 400 devices) + (\$1,950 per device x 250 devices);
Fees Owed = \$847,500 Per Annum / 4 = \$211,875 Per Quarter.

The identified one-time fee calculation methodology variations are the following:

- Some tribes calculate this fee in the same manner as is done by Commission staff;
- In one instance, it is not clear what methodology the tribe used.

The quarterly fee calculation methodologies vary considerably among the tribes. More specifically, the principal variations are the following:

- Some tribes calculate this fee in the same manner as is done by Commission staff;
- Some tribes first reduce the “Number of Licensed Devices” by “350” to determine the “Fee Per Device Per Annum” (in the example above, this methodology would produce a fee of \$585,000 per annum = \$146,250 per quarter, calculated as follows: $1,000 - 350 = 650 \times \900)(this is **\$262,500 less per year** than the way staff calculates the fee);
- Some tribes first determine the “Fee Per Device Per Annum”, then reduce the number of devices by “350” (in the example above, this methodology would produce a fee of \$1,267,500 per annum = \$316,875 per quarter, calculated as follows: 1,000 devices = \$1,950 per device; $1,000 - 350 = 650 \times \$1,950$)(this is **\$420,000 more per year** than the way staff calculates the fee);
- Some tribes determine the “Fee Per Device Per Annum”, and then calculate the fee (in the example above, this methodology would produce a fee of \$1,950,000 per annum = \$487,500 per quarter, calculated as follows: $1,000 \times \$1,950$)(this is **\$1,102,500 more per year** than the way staff calculates the fee);
- Some tribes take the position that the one-time fee is a prepayment credit against quarterly fees, and claim that they don’t owe any quarterly fees until the “credit” is “used up” (in the example above, this is **\$1,250,000 less** than the way the staff calculates the fee);
- In some instances, it is not clear what methodology the tribes used.

Clearly, these quarterly fee calculation methodology variations need to be standardized. Until this issue is resolved, even though tribes have made one-time and quarterly fee payments to the RSTF, it is not clear as to what are the correct payments that they should have made, and, in turn, what is the correct fund balance available for distribution.

The Commission has received numerous requests, suggestions and recommendations from various parties to try to make a partial distribution from the RSTF as soon as possible (for example, during various Commission meetings, during the April 25th hearing before the Assembly Budget Sub-committee #4, and during the April 25th meeting of the California Nations Indian Gaming Association).

Finally, all parties need to recognize that any distribution based on this *partial, unaudited* information may result in some over- and under-payments, that this *unaudited* information will need to be audited by the Commission after the Commission’s budget is approved, and that these distribution payments may need to be adjusted. As a result, as part of the fiscally-prudent approach, it would be essential to retain a substantial reserve until complete, audited information is available.

SUMMARY: Given the language in the Compacts, given the report required by the Legislature, given that there are 18 tribes that have not yet responded to the Commission’s request for needed information and, thus, can’t be identified as “*Compact*” or “*Non-Compact*” for the purposes of any distribution, given the quarterly fee calculation methodology variations, and given that the tribal responses only identify a portion of the funds in the RSTF as apparently legitimate gaming

device license fee payments at this time, the Commission has two basic options: 1) narrowly interpret the Commission's flexibility under the Compacts and under the Budget Act and defer any effort to make a distribution until all of the information needed by the Commission is available to the Commission, or 2) take a broader interpretation of the Commission's flexibility under the Compacts and under the Budget Act, and take a fiscally-sensitive but fiscally-prudent approach, and consider a *partial distribution* at this time until the Commission can obtain and confirm the requested information from all of the Compact Tribes and Sides, and, in turn, determine if all of the funds in the RSTF are legitimate gaming device license fee payments. If the Commission takes this approach, if no Compact Tribe legally challenges this approach, and if the Legislature authorizes the expenditure recommended in the Commission's report, *the Commission could make a partial distribution from the RSTF.*

It is recommended that the Commission (1) indicate that it is not affirming at this time the manner in which the Compact Tribes calculated their quarterly fee payments, (2) that it approve the attached report to the Legislature for a proposed \$10.1 million partial distribution of the \$30.2 million in unaudited but apparently legitimate gaming device license fee payments in the RSTF to the 68 eligible non-compact non-gaming tribes and eligible non-compact gaming tribes that have submitted the requested information to the Commission (see Attachment #1), and (3) that it retain a fiscally-prudent reserve of \$20.1 million in the RSTF until the Commission has complete, audited information on which to base distributions.

Robert Traverso
Interim Executive Director

Attachments

Attachment #1:

**Report on Distribution of Funds from the
Indian Gaming Revenue Sharing Fund**

May 10, 2001

The Honorable Steve Peace
Chairman, Joint Legislative Budget Committee
California State Capitol
Sacramento, CA 95814

RE: Report on Distribution of Funds from the Indian Gaming Revenue Sharing Trust Fund

Dear Senator Peace:

Item 0855-101-0366 of Chapter 52 of the Statutes of 2000 established a process by which funds held in the Indian Gaming Revenue Sharing Trust Fund (IGRSTF) can be used to augment the \$1,000 amount appropriated by this item for distribution to non-compact tribes. At this time, the California Gambling Control Commission (Commission) has requested approval from the Director of the Department of Finance to make the first such distribution of funds from the IGRSTF for the quarters ended September 30, 2000, December 31, 2000, and March 31, 2001.

Per the statute, a report identifying five items of information was requested to be provided to the Legislature. The information requested follows:

1. The Methodology for Determining a Non-Compact Tribe

Per Section 4.3.2(a)(i) of the Tribal-State Gaming Compact (Compact), the term "Compact Tribe" and "Non-Compact Tribe" is defined as:

A "Compact Tribe" is a tribe having a compact with the State that authorizes the Gaming Activities authorized by the Compact. Federally-recognized tribes that are operating fewer than 350 Gaming Devices are "Non-Compact Tribes." Non-Compact Tribes shall be deemed third party beneficiaries of this and other compacts identical in all material respects. A Compact Tribe that becomes a Non-Compact Tribe may not thereafter return to the status of a Compact Tribe for a period of two years becoming a Non-Compact Tribe (sic).

For the first distribution from the IGRSTF, the Commission used the following procedures as the methodology for determining if a tribe is a Non-Compact Tribe:

- A. Identify all tribes in the State of California that are Federally-recognized based on information obtained from the U. S. Department of Interior, Bureau of Indian Affairs.
- B. Classify all tribes identified in step A as either: 1) Compact Tribes operating 350 or more gaming devices, 2) Non-Compact Tribes as defined by the Compact, or 3) non-compacted gaming tribes.
- C. Classify all Non-Compact Tribes identified in part 2) of step B as eligible Non-Compact non-gaming tribes and Non-Compact gaming tribes that have submitted the requested information per the March 22, 2001, letter from the Commission to all Compact Tribes.
- D. Prepare a list of Non-Compact Tribes as identified in step C.

2. A list of the Non-Compact Tribes Identified Based on the Commission's Methodology

A list of all Non-Compact Tribes as identified by the methodology identified in item 1 above is attached as Exhibit 1.

3. The Methodology for Determining the Amount of Revenue Each Compact Tribe is Required to Pay into the Indian Gaming Revenue Sharing Trust Fund

All Compact Tribes are required to make payments into the IGRSTF in accordance with the terms of the Compact as noted in Section 4.3.2.2(a)(2) and Section 4.3.2.2(e) of the Compact. These sections of the Compact read as follows, respectively:

Sec. 4.3.2.2(a)(2) The Tribe may acquire and maintain a license to operate a Gaming Device by paying into the Revenue Sharing Trust Fund, on a quarterly basis, in the following amounts:

Number of Licensed Devices	Fee Per Device Per Annum
1-350	\$0
351-750	\$900
751-1250	\$1950
1251-2000	\$4350

Sec. 4.3.2.2(e) As a condition of acquiring licenses to operate Gaming Devices, a non-refundable one-time pre-payment fee shall be required in the amount of \$1,250 per Gaming Device being licensed, which fees shall be deposited in the Revenue Sharing Trust Fund....

4. A Trust Fund Condition Report Including the Amount of Revenue Received From Each Compact Tribe

A trust fund condition statement for the IGRSTF as of March 31, 2001, is attached as Exhibit 2. A listing of the unaudited amount of revenue received from each Compact Tribe as reported in response to the March 22, 2001, letter from the Commission is attached as Exhibit 3.

5. The Amount of Funds to be Distributed to Each Non-Compact Tribe

The amount of funds to be distributed to each Non-Compact Tribe is listed in Exhibit 1 that is attached. The amount of the partial distribution is equal to \$50,000 for each quarter that a tribe is eligible to receive a distribution.

Sincerely,

John Hensley, Chairman
California Gambling Control Commission

cc: The Honorable Deirdre Alpert, Chairwoman, Senate Appropriations Committee
The Honorable Carole Migden, Chairwoman, Assembly Appropriations Committee

EXHIBIT 2

**CALIFORNIA GAMBLING CONTROL COMMISSION
INDIAN GAMING REVENUE SHARING TRUST FUND
FUND CONDITION STATEMENT
AS OF MARCH 31, 2001**

ASSETS

CASH:

Cash in State Treasury	\$39,612,434.03
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Total Assets	\$39,612,434.03
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LIABILITES AND FUND EQUITY

LIABILITIES	0
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FUND EQUITY	\$39,612,434.03
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Total Liabilities and Fund Equity	\$39,612,434.03
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Exhibit 1	
Non-Compact Tribes Eligible to Receive a Partial Distribution from the IGRSTF (based on the Commission's Methodology) and the Amount of Funds to be Distributed	
Non-Compact Indian Tribe	Amount of Funds to Be Distributed
Augustine Band of Mission Indians	\$150,000
Benton Paiute Reservation	150,000
Big Lagoon Rancheria	150,000
Big Pine	150,000
Big Sandy Band of Western Mono Indians	150,000
Blue Lake Rancheria	150,000
Bridgeport Indian Colony	150,000
Buena Vista Rancheria	150,000
Campo Band of Mission Indians	150,000
Capitan Grande Reservation	150,000
Cedarville Rancheria	150,000
Chemehuevi Indian Tribe	150,000
Chico Rancheria	150,000
Cloverdale Rancheria	150,000
Cold Springs Rancheria	150,000
Cortina Rancheria	150,000
Elem Indian Colony	150,000
Enterprise Rancheria	150,000
Ewiiapaayp Tribe	150,000
Federated Indians of the Graton Rancheria	100,000
Fort Bidwell Reservation	150,000
Fort Independence Reservation	150,000
Greenville Rancheria	150,000
Grindstone Rancheria	150,000
Guidiville Rancheria	150,000
Hoop Valley Tribe	150,000
Hopland Reservation	150,000
Inaja-Cosmit Reservation	150,000
Ione Band of Miwok Indians	150,000
Jamul Indian Village	150,000

Karuk Tribe of California	150,000
La Posta Band of Mission Indians	150,000
Lone Pine Reservation	150,000
Los Coyotes Reservation	150,000
Exhibit 1 (continued)	
Non-Compact Tribes Eligible to Receive a Partial Distribution from the IGRSTF (based on the Commission's Methodology) and the Amount of Funds to be Distributed	
Non-Compact Indian Tribe	Amount of Funds to Be Distributed
Lower Lake Rancheria	\$100,000
Lytton Rancheria	150,000
Manzanita Band of Mission Indians	150,000
Mesa Grande Band of Mission Indians	150,000
Middletown Rancheria Band of Pomo Indians	150,000
North Fork Rancheria	150,000
Pala Band of Mission Indians	150,000
Pauma/Yuima Band of Mission Indians	150,000
Picayune Rancheria	150,000
Pinoleville Reservation	150,000
Pit River Tribe	150,000
Potter Valley Reservation	150,000
Quartz Valley Reservation	150,000
Ramona Band of Mission Indians	150,000
Redwood Valley Rancheria	150,000
Resighini Rancheria	150,000
Rohnerville Rancheria	150,000
Round Valley Reservation	150,000
San Pasqual Band of Diegueno Indians	150,000
Santa Rosa Band of Mission Indians	150,000
Santa Ysabel Band of Mission Indians	150,000
Scotts Valley Rancheria	150,000
Sheep Ranch Rancheria	150,000
Shingle Springs Rancheria	150,000
Stewarts Point Rancheria	150,000
Susanville Indian Rancheria	150,000
Table Bluff Reservation	150,000
Timba-sha Shoshone Tribe	150,000
Torrez-Martinez Desert Cahuilla Indians	150,000
Trinidad Rancheria	150,000
Tuolumne Rancheria	150,000
United Auburn Indian Community	150,000
Upper Lake Rancheria	150,000

Yurok Tribe	150,000
Total	\$10,100,000

Exhibit 3

Unaudited Amount of Revenue Reported by Each Compact Tribe in Response to the March 22, 2001 Commission Letter

Compact Tribe	Revenue Reported
Agua Caliente Band of Cahuilla Indians	\$1,401,969
Alturas Rancheria	No Response
Augustine Band of Mission Indians	437,500
Barona Band of Mission Indians	1,611,519
Berry Creek Rancheria	437,500
Big Sandy Rancheria	250,000
Big Valley Rancheria	500,000
Bishop Paiute Tribe	No Response
Blue Lake Rancheria	0
Buena Vista Rancheria	1,812,500
Cabazon Band of Mission Indians	No Response
Cahuilla Band of Mission Indians	No Response
Campo Band	0
Chemehuevi Indian Tribe	75,000
Chicken Ranch Rancheria	No Response
Colusa Rancheria	0
Dry Creek Rancheria	No Response
Elem Indian Colony	No Response
Elk Valley Rancheria	No Response
Ewiiapaayp Tribe	1,250,000
Hoop Valley Tribe	0
Hopland Reservation	562,500
Jackson Rancheria	612,500
Jamul Indian Village	0
La Jolla Band of Luiseno Indians	No Response
Laytonville Rancheria	No Response
Manchester Point Arena Rancheria	No Response
Manzanita Band of Mission Indians	0
Middletown Rancheria	187,500
Mooretown Rancheria	625,000
Morongo Band of Mission Indians	466,250
Pala Band of Mission Indians	2,062,500
Paskenta Band of Nomlaki Indians	No Response
Pauma/Yuima Band of Mission Indians	0
Pechanga Band of Mission Indians	833,750
Picayune Rancheria	1,562,500

Pit River Tribe	0
Exhibit 3 (continued)	
Unaudited Amount of Revenue Reported by Each Compact Tribe in Response to the March 22, 2001 Commission Letter	
Compact Tribe	Revenue Reported
Quechan Indian Nation	No Response
Redding Rancheria	\$437,500
Resighini Rancheria	0
Rincon Band of Mission Indians	No Response
Robinson Rancheria	0
Rohnerville Rancheria	0
Rumsey Rancheria	862,500
San Manuel Band of Mission Indians	No Response
San Pasqual Band of Diegueno Indians	2,071,250
Santa Rosa Rancheria	No Response
Santa Ynez Band	1,550,000
Sherwood Valley Rancheria	No Response
Shingle Springs Rancheria	0
Smith River Rancheria	No Response
Soboba Band of Mission Indians	0
Susanville Indian Rancheria	0
Sycuan Band of Mission Indians	2,436,213
Table Mountain Rancheria	2,648,188
Trinidad Rancheria	0
Tule River Reservation	435,000
Tuolumne Rancheria	314,250
Twenty-Nine Palms Band of Mission Indians	2,610,563
United Auburn Indian Community	812,500
Viejas Band of Kumeyaay Indians	1,380,050
Total	\$30,246,502

Attachment #2

List of Compact Tribes Which *Have* Submitted Responses to Gambling Control Commission's Letter, Dated March 22, 2001

TRIBES THAT HAVE RESPONDED TO 3/22/01 LETTER

1. Agua Caliente Band of Cahuilla Indians*
2. Augustine Band of Mission Indians*
3. Barona Band of Mission Indians*
4. Bear River Band of the Rohnerville Rancheria*
5. Berry Creek Rancheria*
6. Big Valley Band of Pomo Indians*
7. Big Sandy Rancheria*
8. Blue Lake Rancheria*
9. Buena Vista Rancheria*
10. Cahto Tribe of the Laytonville Rancheria*
11. Chemehuevi Indian Tribe*
12. Colusa Band of Wintun Indians**
13. Cuyapaipe Band of Mission Indians*
14. Hopland Band of Pomo Indians*
15. Hoopa Valley Tribe*
16. Jackson Rancheria Band of Mi-Wuk Indians*
17. Jamul Indian Village*
18. Manzanita Band of Mission Indians*
19. Middletown Rancheria*
20. Mooretown Rancheria*
21. Morongo Band of Mission Indians*
22. Pala Band of Mission Indians*
23. Pechanga Band of Mission Indians*
24. Picayune-Chuckchansi Rancheria*
25. Pit River Tribe*
26. Redding Rancheria*
27. Resighini Rancheria*
28. Rincon Band of Mission Indians*
29. Robinson Rancheria**
30. Rumsey Indian Rancheria*
31. San Pasqual Band of Diegueno Indians*
32. Santa Ynez Band of Indians*
33. Shingle Springs Rancheria*
34. Soboba Band of Mission Indians*
35. Susanville Indian Rancheria*
36. Sycuan Band of Mission Indians*
37. Table Mountain Rancheria*
38. Trinidad Rancheria*
39. Tuolumne Rancheria*
40. Tule River Indian Reservation**
41. Twenty-Nine Palms Band of Mission Indians**
42. United Auburn Indian Community*
43. Viejas Band of Mission Indians*

*Complete Responses(39)

**Partial Responses(4)

Attachment #3

List of Compact Tribes Which *Have Not* Submitted Responses to Gambling Control Commission's Letter, Dated March 22, 2001

5/9/01

TRIBES THAT *HAVE NOT* RESPONDED TO 3/22/01 LETTER

1. Alturas Rancheria
2. Bishop Paiute Tribe*
3. Cabazon Band of Mission Indians
4. Cahuilla Band of Mission Indians*
5. Campo Band of Diegueno Indians
6. Chicken Ranch Band of Mi-Wuk Indians
7. Dry Creek Rancheria
8. Elem Indian Colony
9. Elk Valley Rancheria
10. La Jolla Band of Luiseno Indians
11. Manchester Point Arena Rancheria*
12. Paskenta Band of Nomlaki Indians
13. Pauma/Yuima Band of Mission Indians
14. Quechan Indian Nation
15. San Manuel Band of Mission Indians
16. Santa Rosa Band of Tachi Indians
17. Sherwood Valley Rancheria*
18. Smith River Rancheria

*Faxed Letter(4)